

Message Text

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44

ACTION L-03

INFO OCT-01 AF-06 ISO-00 JUSE-00 SCA-01 CIAE-00 INR-07

NSAE-00 DEAE-00 SNM-02 /020 W

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R 271515Z AUG 75

FM AMEMBASSY DAKAR

TO SECSTATE WASHDC 2041

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E.O. 11652: N/A

TAGS: PFOR, CPRS, SNAR, AF

SUBJ: RETURN OF DOMINIQUE ORSINI

REF: A. DAKAR 4902, B. DAKAR 4853

1. TO ROUND OUT TELEGRAPHIC RECORD OF EXCHANGES WITH GOS ON ORSINI CASE, EMBASSY PROVIDES FOLLOWING ACCOUNT OF DEVELOPMENTS IN 72 HOURS PRECEDING FUGITIVE'S DEPARTURE FROM SENEGAL.

2. AT 1600 AUGUST 22, IMMEDIATELY UPON ARRIVAL OF ASST LEGAL ADVISOR FIELDS AND DEA AGENT BOCCHICHIO, CHARGE AND ADCM WENT WITH THEM TO FONMINISTRY FOR BRIEF MEETING WITH TECHNICAL COUNSELOR WANE BARANE. BIRANE ACCEPTED DIPLOMATIC NOTE WHICH (A) TRANSMITTED PACKET OF EXTRADITION DOCUMENTS, (B) SPECIFICALLY REQUESTED THAT ORSINI BE HELD UNDER PROVISIONAL ARREST, (C) NOTED PRESENCE OF FIELDS AND BOCCHICHIO, AND (D) AGAIN REQUESTED EXTRADITION OR EXPULSION OF ORSINI. BIRANE, AFTER VERY BRIEF MEETING, PRESENTED VISITORS TO CABINET DIRECTOR YOUSSEPH SYLLA. HE THEN ACCOMPANIED FOUR AMERICANS TO MINISTRY OF JUSTICE WHERE GROUP WAS RECEIVED BY MOCTAR MBACKE, TECHNICAL COUNSELOR, WHO IN ABSENCE OF BOTH MINISTER AND DIRECTOR OF CABINET, WAS IN CHARGE OF MINISTRY. GROUP WAS JOINED BY CHEIKH SADIBOU NDIAYE, DIRECTOR OF JUDICIAL POLICE (AND INTERPOL REP) WHO REPRESENTED MINISTRY OF INTERIOR. BIRANE THERE DELIVERED TO MBACKE LETTER FROM MINISTRY OF FONAFAIRS WHICH TRANSMITTED
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EMBASSY'S NEW NOTE AND ATTACHED EXTRADITION DOCUMENT

PACKAGE.

3. MBACKE SAID HE HAD BEEN IN TOUCH WITH PROCUREUR GENERAL IN CONNECTION WITH ORSINI CASE (REF B). MCBACKE CITED PROVISIONS OF SENEGALESE LAW COVERING PROVISIONAL ARREST, EXTRADITION AND EXPULSION, AND PROVIDED FIELDS WITH COPY THIS LAW. HE ALSO QUESTIONED NDIAYE ON AUTHORITY UNDER WHICH ARREST INITIALLY CARRIED OUT, AND WAS TOLD THAT CABLE THROUGH INTERPOL CHANNELS HAD BEEN DOCUMENTATION ON WHICH ARREST HAD BEEN BASED. MBACKE SUGGESTED THAT ORSINI'S ATTORNEY MIGHT CHALLENGE LEGAL BASIS FOR CONTINUED DETENTION BY ALLEGING THAT ARREST IMPROPER UNLESS FORMAL REQUEST FOR ARREST FOLLOWED TELEGRAPHIC ONE. HE ALLUDED ALSO TO POSSIBLE ORSINI CLAIM THAT GOS COULD NOT LEGALLY TAKE HIM INTO CUSTODY WHILE HE WAS IN TRANSIT LOUNGE OF AIRPORT AND HAD NOT COMPLETED FORMALITIES TO ENTER SENEGAL. MBACKE SAID HE WOULD NOT PASS JUDGMENT ON VALIDITY OF THESE CHALLENGES BUT ADDED THAT HE WISHED TO CONSIDER COURSES OF ACTION WHICH MIGHT BE OPEN TO GOS IF GRAND JURY (CHAMBRE D'ACCUSATION) REACHED DECISION ON AUGUST 23 THAT ORSINI MUST BE RELEASED. ASSISTANT LEGAL ADVISER FIELDS ASSURED MBACKE OF AMPLE PRECEDENT IN INTERNATIONAL LAW FOR AIRPORT TRANSIT AREA ARRESTS.

4. IF COURT DECIDED THAT ORSINI SHOULD BE FREED, MBACKE SAID, ALTERNATIVE OPTIONS WOULD BE TO REARREST ORSINI IMMEDIATELY UPON BASIS HIS THEN INCONTESTABLE PRESENCE IN SENEGAL. NEW ARREST COULD BE CARRIED OUT ON FORMAL U.S. REQUEST FOR PROVISIONAL ARREST (CONTAINED IN EMBASSY NOTE JUST DELIVERED THROUGH MINISTRY OF FOREIGN AFFAIRS) AND ALSO ON PACKAGE OF DOCUMENTS BROUGHT TO DAKAR BY FIELDS. HE SAID MINISTRY WOULD ATTEMPT TO ARRANGE PROCEEDINGS TO COINCIDE WITH NEXT SCHEDULED PANAM DEPARTURE FOR U.S. WHILE MBACKE DID NOT ANTICIPATE COURT'S DECISION, HE ASSURED U.S. REPS THAT GOS RECOGNIZED GRAVITY OF CRIMES OF WHICH ORSINI IS ACCUSED. HE ASKED THAT EMBASSY REMAIN IN CONTACT WITH MINISTRY OF FOREIGN AFFAIRS AND SURETE WHILE AWAITING FURTHER DEVELOPMENTS. ACCEPTING PACKET OF EXTRADITION DOCUMENTATION TRANSMITTED BY EMBASSY NOTE AND ACCOMPANIED BY COVERING LETTER FROM MINISTRY OF FOREIGN AFFAIRS, MBACKE SAID HE WOULD CONVEY ALL DOCUMENTATION TO PROCURER GENERAL. HOWEVER, HE SAID THAT FORMAL LIMITED OFFICIAL USE

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ADMISSION OF THESE DOCUMENTS IN EVIDENCE BY CHAMGE D'ACCUSATION PROBABLY WOULD BE IMPOSSIBLE SINCE COURT ALREADY IN SESSION AND, THEREFORE, COULD NOT RECEIVE FURTHER EVIDENCE OR REQUESTS.

5. IN MID MORNING TELEPHONE CALL TO EMBASSY AUGUST 23 JUDICIAL POLICE COMMISSAR NDIAYE ASKED IF EMBASSY COULD MAKE ARRANGEMENTS TO TAKE CUSTODY OF ORSINI IMMEDIATELY IF GOS PUT HIM AT USG DISPOSITION DURING THAT MORNING. IN CONSULTATION WITH

FIELDS, EMBASSY BEGAN EXAMINING FEASIBILITY OF DETAINING
ORSINI OVER WEEKEND IN CHANCERY UNDER ARMED GUARD. HOWEVER,
SHORTLY AFTER NOON AGUSUT 23 NDIAYE CALLED CHARGE TO ADVISE THAT
GOS WAS PREPARED TO ESCORT ORSINI TO AIRPORT AT AGREED TIME
JUST PRIOR TO NEXT PANAM DEPARTURE AND TO TURN HIM OVER TO
U.S. CUSTODY ABOARD PLANE. HE AND CHARGE AGREED THAT ORSINI
SHOULD BE BROUGHT TO AIRPORT AT 0400 AUGUST 25 TO MEET
PAN AM FLIGHT WHOSE DEPARTURE WAS SCHEDULED FOR 0510. ONCE THIS
AGREEMENT WAS REACHED, EMBASSY DID NOT MAKE FURTHER APPROACHES
TO GOS OFFICIALS ON THIS ISSUE, AND WAS NOT CONTACTED BY GOS OR
FRENCH REPRESENTATIVES BEFORE CHARGE ARRIVED AT AIRPORT AT
0330 AUGUST 25 IN COMPANY OF FIELDS, COLLIER, AND
BOCCHICHIO.
AGGREY

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXTRADITION, DRUG ABUSE, DRUG CONTROL
Control Number: n/a
Copy: SINGLE
Draft Date: 27 AUG 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975DAKAR04956
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750297-0015
From: DAKAR
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750810/aaaaaipv.tel
Line Count: 129
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 DAKAR 4902, 75 DAKAR 4853
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 27 AUG 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27 AUG 2003 by MartinML>; APPROVED <15 DEC 2003 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: RETURN OF DOMINIQUE ORSINI
TAGS: PFOR, CPRS, SNAR, AF, (ORSINI, DOMINIQUE)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006